

From: [Johnson, Jeh C](#)
To: [Woods NYSD Chambers](#)
Cc: [David Jeffries Esq. \(djeffries@jeffrieslaw.nyc\)](#); [Buerger, Susanna M](#); [Birenboim, Bruce](#); [Doran, Marissa](#)
Subject: URGENT: Cardwell v. Davis Polk at al, 1:19-cv-10256 (GHW)
Date: Monday, March 22, 2021 11:08:54 AM

CAUTION - EXTERNAL:

Your Honor:

I regret that we must bother you with an urgent discovery issue concerning Plaintiff Kaloma Cardwell 's virtual deposition. The deposition was scheduled to be a two-day deposition commencing this morning at 9:30. Plaintiff did not appear this morning and has refused to appear. We request an order directing Mr. Cardwell to appear for a two-day deposition (or a combined total of at least 14 hours) commencing ASAP, preferably today. Fact discovery in this case is currently due to end in just 24 days, and Mr. Jeffries has told us he wants to take six depositions himself before then.

On February 12, after consulting Plaintiff's attorney Mr. Jeffries about the schedule, we noticed Plaintiff's deposition for March 9-10. On February 26 Mr. Jeffries informed us that March 9-10 "do not work on our end" for Mr. Cardwell's deposition and that they "will schedule Plaintiff's deposition on two consecutive days that are not reserved" for other depositions. On March 9, Mr. Jeffries sent us a letter stating that "Mr. Cardwell is available to be deposed on March 22nd and 23rd." We accepted that in an email to Mr. Jeffries on March 10.

Last week, in the course of negotiating a stipulation for virtual depositions in this case, Mr. Jeffries and his client reneged on their prior agreement to be deposed for two days. In the course of the discussions Mr. Jeffries also took a baseless position that the Protective Order limited our ability to show Confidential information to personnel at our client Davis Polk, even though Davis Polk is a named Defendant in the case. To keep matters on track for today, I offered to limit dissemination of the deposition transcript and testimony from today's deposition to my law firm and Davis Polk's in-house counsel until the disagreement about the interpretation of the Protective

Order was resolved by the Court. That offer was rejected.

Defendants therefore seek an order compelling Plaintiff to submit for a two-day (or at least 14-hour) deposition to commence ASAP, preferably today, and awarding Davis Polk its costs in the event today's deposition is cancelled, as well as the costs of bringing this application.

My phone number is below.

Respectfully submitted,

Jeh Charles Johnson | Partner ([Bio](#))

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